

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

BRUCE BUSKE,,

Plaintiff,

vs

5:07-CV-120

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

APPEARANCES:

OLINSKY & SHURTLIFF
Attorneys for Plaintiff
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Syracuse, NY 13202

SOCIAL SECURITY ADMINISTRATION
Office of Regional General Counsel
Region II
26 Federal Plaza - Room 3904
New York, NY 10278

DAVID N. HURD
United States District Judge

OF COUNSEL:

HOWARD D. OLINSKY, ESQ.

KIMBERLY L. SCHIRO, ESQ.

DECISION and ORDER

Plaintiff filed this action in February 2007, appealing a denial of Social Security benefits. By Report-Recommendation dated November 20, 2008, the Honorable Victor E. Bianchini, United States Magistrate Judge, recommended that defendant's motion for judgment on the pleadings should be denied; plaintiff's cross-motion for judgment on the pleadings should be denied in part and granted in part, and remanded for reconsideration. The parties have filed objections to the report and recommendation.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Bianchini, the Report-Recommendation is accepted and adopted in whole. See 28 U.S.C. 636(b)(1). Accordingly, it is

ORDERED that

1. Defendant's motion for judgment on the pleadings is DENIED;
2. Plaintiff's cross-motion for judgment on the pleadings is DENIED in part and

GRANTED in part.

3. This matter is REMANDED to the Commissioner for further proceedings consistent with the Report-Recommendation.

IT IS SO ORDERED.



United States District Judge

Dated: January 26, 2009
Utica, New York.